THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte JAMES M. OVERTURF
and CRIS T. PALTENGHE

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Appeal No. 1997-4219
Application 08/315,745

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ON BRIEF

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Before KRASS, FLEMING, and RUGGIERO, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1, 2, 7 and 9. Claims 3 through 6 and 8 have been indicated by the examiner as allowable.

The invention is directed to the translation of software programs.

Representative independent claim 1 is reproduced as follows:

1. A computer implemented method for translating a program on a source application system in a first representation with a first high level language and a first data structure to a second representation with a second high level language and second data structure on a target application system, comprising the steps of:

generating a cross reference between a first set of data items from said source application system and a second set of data items from said target application system; and

translating said program in said first representation with a first high level language and a first data structure on said source application system to said second representation with a second high level language and a second data structure on said target application system in accordance with said cross reference.

The examiner relies on the following references:

Jack et al. (Jack) 5,119,465 Jun. 2, 1992
Pham et al. (Pham) 5,524,253 Jun. 4, 1996
(filed Aug. 13, 1993)

Claims 1, 2, 7 and 9 stand rejected under 35 U.S.C. § 103 as unpatentable over either one of Jack or Pham.

Reference is made to the briefs and answer for the respective positions of appellants and the examiner.

OPINION

We will reverse both rejections of claims 1, 2, 7 and 9 under 35 U.S.C. § 103.

We are not persuaded by appellants' argument that the references are directed to translations of data types rather than conversion from one program language to another. Both references appear to teach a conversion from one programming language to another. For example, in Pham, the sending of messages and files from an application program in a first computer language to an application program in a second computer language [see Pham's abstract] sounds like a conversion from one computer language to another. In Jack, although the reference is primarily concerned with data structure format conversion, column 3, lines 63-65, states that "[a]lternatively, the command source 12 may comprise an applications program that requires a conversion from a source format to a target format."

Nevertheless, we will not sustain the examiner's rejections because there are other features of the claimed invention which, in our view, are not disclosed or made obvious by the applied references. More specifically, each of

the claims requires the generation of a "cross reference" or a cross referencing system. The cross referencing system, as disclosed, requires an input of a first set of data items from the source application system [see 9 in Figure 1] and another input of a second set of data items from the target application system [see 35 in Figure 1]. The cross referencing system, coupled to receive these two sets of data, generates a cross referencing repository in response to these inputs. Translation takes place based on the cross reference generated.

Claims 2 and 7 are very specific about the cross referencing system requiring inputs from both the source application system and the target application system. While not as specific, claim 1 does call for the generation of a cross reference between a first set of data items from the source application system and a second set of data items *from* the target application system. So, even claim 1 requires some input from the target application system to the cross referencing system. Claim 9, while somewhat broader in many aspects, still calls for a means for cross referencing data items in a source application system program ***with*** data items

on a target application system program. Thus, again, there appears to be some input from the target application system program.

To whatever extent there is any doubt about what the claimed “cross referencing” or “cross reference” entails, we interpret the instant claim language to mean the disclosed “cross referencing,” i.e., that a contribution from both the source application system and the target application system is required.

With this interpretation in mind, we look to the applied references. The examiner appears to have interpreted the disclosed “intermediate structure” of Jack and the Common Data Representation (CDR) of Pham to constitute the claimed “cross referencing” or “cross reference.”

In Jack, the intermediate structure accepts information from the source structure format and permits a conversion into the target structure in the target format but the conversion appears to be one way, i.e., the only input to the intermediate structure, or “cross referencing structure,” is from the source end, with no input from the target end. Thus,

this cannot be a “cross reference,” as required by the instant claims.

In Pham, the CDR does appear to operate bidirectionally, i.e., “conversion routines needed are written to convert data back and forth from a local machine and language format to a machine- and language- independent data format” [column 16, lines 34-37]. However, while this disclosure indicates that either the source system or the target system might provide inputs for “cross referencing,” to the extent that Pham’s CDR may be considered a “cross reference,” there is no indication that both source and target systems provide inputs as required by the cross referencing of the instant claimed invention.

Additionally, claims 7 and 9 both require a “user interface coupled” between said cross referencing system and said translator [claim 7] or “to said means for cross referencing for providing user control” [claim 9]. We find no such teaching or suggestion in either Jack or Pham. The examiner’s only treatment of this limitation occurs in the response section of the answer wherein the examiner states that user interfacing “is nothing more than visual/display

means and this is well known in any data processing system." While user interfacing or control, per se, may be "well known," we have no evidence of record from the examiner as to why it would have been obvious to have provided such user interface in the instant environment of program conversion and, moreover, why it would have been obvious to provide such an interface coupled to the claimed cross referencing means or system. For example, Pham appears to provide user input at the system manager element 210 but there is no indication as to how, if at all, such input is coupled to a cross referencing means, as claimed. Accordingly, the examiner has not made a proper rejection of claims 7 and 9 under 35 U.S.C. 103 for this reason alone.

The examiner's rejection of claims 1, 2, 7 and 9 under 35 U.S.C. 103 is reversed.

REVERSED

Errol A. Krass)
Administrative Patent Judge)
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Michael R. Fleming	)	BOARD OF PATENT
Administrative Patent Judge	)	APPEALS AND
	)	INTERFERENCES
	)	
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Joseph F. Ruggiero	)	
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